IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3812 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHREE JEEVANPRAKASH VIKAS MANDAL - Petitioner
Versus
GOVERNMENT OF GUJARAT & 2 - Respondents

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Appearance :
MR JD AJMERA for Petitioner : 1,
MR SP HASURKAR AGP for Respondents : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

Date : 07/04/2006

ORAL JUDGMENT

1.The petitioner School has preferred this petition under Article 226 of the Constitution of India challenging the order dated 4th March, 1994, whereunder, the

District Education Officer, Vadodara District has suspended the maintenance grant to the school for the reasons recorded therein. It is important to note that the Joint District Director of Education had issued a notice on 3.3.1994 calling upon the petitioner School as to why 100% maintenance grant of the petitioner School may not be stopped on account of recalcitrant attitude and the reasons recorded in the notice.

2. Shri Ajmera, learned advocate for the petitioner has submitted that the petitioner is challenging only the order dated 4.3.1994, whereunder, the maintenance grant is abruptly suspended by the District Education Officer without affording any opportunity to the petitioner. In fact, the District Education Officer ought not to have precipitated the action, in view of the fact that the superior authority i.e. Joint Director Education had already issued notice and the process had been initiated. In view of this, the impugned action on the part of the District Education Officer is untenable in eye of law.

3. The respondents have not filed any affidavit-in-reply. Shri Hasurkar, learned AGP, however, has vehemently submits that the appropriate warnings had been given time and again to the petitioner School but because of recalcitrant approach of the petitioner School, the

respondents were left with no option but to suspend the grant. He, however, could not advance any legal grounds in support of the issuance of the order dated 4.3.1994, whereunder, maintenance grant of the petitioner school has been suspended till further orders. Mr. Hasurkar, could not show any specific provision regarding passing of order regarding suspension of maintenance grant, when the Joint Director Education had already issued notice.

4. In view of these, it is clear that the District Education Officer has passed the impugned order dated 4.3.1994 without affording any opportunity of hearing to the petitioner and it is, therefore, directly hit by provisions of Article 14 of the Constitution of India. In this view of the matter, this court is of the view that the impugned order dated 4.3.1994 is passed in violation of principles of natural justice and therefore, the same deserves to be quashed and set aside and is accordingly hereby quashed and set aside. However, it is made clear that the notice dated 3.3.1994 issued by the Joint Director, Education at Annexure – D has not been quashed and therefore, the Court is refrained from making any observation on it. It will be open for the respondents to proceed with the notice dated 3.3.1994 and the petitioner will also have

liberty to take all the available ground in its defence before the authority.

5.In view of above directions, the petition is partly allowed. Rule is made absolute in above terms. There shall be no order as to costs.

(S.R.BRAHMBHATT, J.)

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